

U.S. Customs and Border Protection, DHS; Treasury

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Relief is filed, or if a timely filed Application for Relief is denied in whole or in part, the VRU will determine the amount of duty due and issue a bill to the party who filed the vessel repair entry. If the bill is not timely paid, interest will accrue as provided in § 24.3a(b)(1) of this chapter.

(j) * * *

(1) * * * The owner or master of the vessel who fails to timely pay the duty determined to be due is liable for interest as provided in § 24.3a(b)(1) of this chapter.

* * * * *

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel documented with a fishery license endorsement shall touch and trade at a foreign port or place, the master shall obtain from the port director a permit on Customs Form 1379 to touch and trade.

When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.²⁸ Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty.

(b) Upon the arrival of a documented vessel with a fishery endorsement which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

²⁸If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies.

²⁹⁻⁶¹ [Reserved]

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the port director.

(d) No permit to touch and trade shall be issued to a vessel which does not have a Certificate of Documentation with a fishery license endorsement.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-28, 42 FR 3161, Jan. 17, 1977; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

§ 4.16 [Reserved]

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also §§ 4.20(c) and 159.42 of this chapter.)

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 73-175, 38 FR 17444, July 2, 1973]

TONNAGE TAX AND LIGHT MONEY

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), or the high seas adjacent to the U.S. or the above listed foreign locations, and on all vessels (except vessels of the U.S., recreational vessels, and barges,

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as defined in §2101 of Title 46) that depart a U.S. port or place and return to the same port or place without being entered in the United States from another port or place, and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide:

(1) When the vessel has proceeded in ballast from a port to which the 6-cent rate is applicable to a port to which the 2-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 2-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 6-cent port to a 2-cent port when all such cargo or passengers have been unladen or discharged at the 2-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 2-cent port.

(3) The 6-cent rate shall be applied when the vessel proceeds from a 2-cent port to a 6-cent port en route to the United States under circumstances similar to paragraph (a) (1) or (2) of this section.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year. There may be 5 payments at the maximum (6 cent) and 5 at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cent per net ton for the tonnage year of a vessel engaged in alternating trade.

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax and to the payment of light money at the rates and under the circumstances specified in the following table:

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	\$.02 or \$.06	.....	.....
2. All others:			
(i) If all the officers are citizens .....	.02 or .06	.....	.....
(ii) If any officer is not a citizen .....	.02 or .06	¹ 0.50	¹ .50
Undocumented vessels which are owned by citizens ² .....	.02 or .06	.50	³ .50
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money .....	.02 or .06	.....	.....
2. All others:			
(i) Built in the U.S. ....	.02 or .06	.30	.50
(ii) Not built in the U.S. ....	.02 or .06	.50	.50
(iii) In addition to (i) or (ii) of 2., Foreign Vessels, when entering from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade ^{3a} .....	.02 or .06	⁴ 2.00	⁴ .50

¹ This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

² This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

³ This does not apply if the vessel is under a certificate of protection and the owner or master files with the port director the oath required by 46 U.S.C. App. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. App. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

^{3a} The Democratic People's Republic of Korea (North Korea), does not ordinarily permit vessels of the United States to enter and trade.

⁴ This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders.

(e) The fact that a vessel passes through the Panama Canal does not affect the rate of tonnage tax otherwise applicable to the vessel.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the Vessel Entrance or Clearance Statement, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer.

(g) The decision of the Commissioner of Customs is the final administrative decision on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions.

(h) Any person adversely affected by a decision of the Commissioner of Customs relating to the collection of tonnage tax, or to the refund of such tax when collected erroneously or illegally,

may appeal the decision in the Court of International Trade provided that the appeal action is commenced in accordance with the rules of the Court within 2 years after the cause of action first accrues.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 71-169, 36 FR 12603, July 2, 1971; T.D. 75-110, 40 FR 21027, May 15, 1975; T.D. 76-280, 41 FR 42647, Sept. 28, 1976; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 82-145, 47 FR 35475, Aug. 16, 1982; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 85-90, 50 FR 21430, May 24, 1985; T.D. 93-12, 58 FR 13196, Mar. 10, 1993; T.D. 95-76, 60 FR 48028, Sept. 18, 1995; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 00-22, 65 FR 16515, Mar. 29, 2000; CBP Dec. 03-16, 68 FR 48280, Aug. 13, 2003]

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct.

(b) The following vessels, or vessels arriving in the circumstances as defined below, shall be exempt from tonnage tax and light money:

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade.

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies,

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if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(10) It is used exclusively as a ferry boat, including a car ferry.

(11) It is a tug with a Great Lakes license endorsement on its vessel document, when towing vessels which are required to make entry.

(12) It is a documented vessel with a Great Lakes license endorsement which has touched at an intermediate foreign port or ports during a coastwise voyage.

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse duties or equivalent taxes are not imposed on vessels of the United States (applicable only where the vessel arrives from a port in the province of Ontario, Canada).

(14) It is a coastwise-qualified vessel solely engaged in the coastwise trade (although arriving from a foreign port or place, it is engaged in the transportation of merchandise or passengers, or the towing of a vessel other than a vessel in distress, between points in the U.S. via a foreign point) (see §§ 4.80, 4.80a, 4.80b, and 4.92).

(15) It is a vessel entering directly from the Virgin Islands (U.S.), American Samoa, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station.

(16) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year.

(17) It is a vessel arriving at a port in the United States which, while proceeding between ports in the United States, touched at a foreign port under circumstances which would have exempted it from making entry under section 441(4), Tariff Act of 1930, as

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amended (19 U.S.C. 1441(4)), had it touched at a United States port.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 72-264, 37 FR 20317, Sept. 29, 1972; T.D. 75-110, 40 FR 21027, May 15, 1975; T.D. 75-206, 40 FR 34586, Aug. 18, 1975; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 93-12, 58 FR 13197, Mar. 10, 1993]

§ 4.22 Exemptions from special tonnage taxes.

Vessels of the following nations are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of any higher tonnage duties than are applicable to vessels of the United States and are exempted from the payment of light money:

Algeria	Great Britain
Antigua and Barbuda	(including the
Arab Republic of	Cayman Islands)
Egypt	Greece
Argentina	Greenland
Australia	Guatemala
Austria	Guinea, Republic of
Bahamas, The	Guyana
Bahrain	Haiti
Bangladesh	Honduras
Barbados	Hong Kong
Belgium	Hungarian People's
Belize	Republic
Bermuda	Iceland
Bolivia	India
Brazil	Indonesia
Bulgaria	Iran
Burma	Iraq
Canada	Ireland (Eire)
Chile	Israel
Colombia	Italy
Cook Islands	Ivory Coast, Republic
Costa Rica	of
Cuba	Jamaica
Cyprus	Japan
Czechoslovakia	Kenya
Denmark (including	Korea
the Faeroe Islands)	Kuwait
Dominica	Latvia
Dominican Republic	Lebanon
Ecuador	Liberia
El Salvador	Libya
Estonia	Lithuania
Ethiopia	Luxembourg
Fiji	Malaysia
Finland	Malta
France	Marshall Islands,
Gambia, The	Republic of
German Democratic	Mauritius
Republic	Mexico
German Federal	Monaco
Republic	Morocco
Ghana	Nauru, Republic of

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Netherlands	Surinam, Republic of
Netherlands Antilles	Sweden
New Zealand	Switzerland
Nicaragua	Syrian Arab Republic
Nigeria	Taiwan
Norway	Thailand
Oman	Togo
Pakistan	Tonga
Panama	Tunisia
Papua New Guinea	Turkey
Paraguay	Tuvalu
People's Republic of China	Union of South Africa
Peru	Union of Soviet Socialist Republics
Philippines	United Arab Emirates (Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah, and Umm Al Qaiwain)
Poland	Uruguay
Portugal	Vanuatu, Republic of
Qatar	Venezuela
Rumania	Yugoslavia
Saudi Arabia	Zaire
Senegal	
Singapore, Republic	
Somali, Republic	
Spain	
Sri Lanka	
St. Vincent and The Grenadines	

[28 FR 14596, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 4.22, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 4.23 Certificate of payment and cash receipt.

Upon each payment of tonnage tax or light money, the master of the vessel shall be given a certificate on Customs Form 1002 on which the control number of the cash receipt (Customs Form 368 or 368A) upon which payment was recorded shall be written. This certificate shall constitute the official evidence of such payment and shall be presented upon each entry during the tonnage year to establish the date of commencement of the tonnage year and to insure against overpayment. In the absence of the certificate, evidence of payment of tonnage tax shall be obtained from the port director to whom the payment was made.

[T.D. 85-71, 50 FR 15415, Apr. 18, 1985, as amended by T.D. 92-56, 57 FR 24943, June 12, 1992]

§ 4.24 Application for refund of tonnage tax.

(a) The authority to make refunds in accordance with section 26 of the Act of June 26, 1884 (46 U.S.C. 8) of regular

tonnage taxes described in § 4.20(a) is delegated to the Directors of the ports where the collections were made. If any doubt exists, the case shall first be referred to Headquarters, U.S. Customs Service for advice.

(b) Each application for refund of regular or special tonnage tax or light money prepared in accordance with this section shall be filed with the Customs officer to whom payment was made. After verification of the pertinent facts asserted in the claim, the application shall be forwarded with any necessary report or recommendation to the appropriate port director. Applications for refund of special tonnage tax and light money (see § 4.20(c)) with the reports and recommendations submitted therewith shall be forwarded by the port director to the Commissioner of Customs for decision. Any refund authorized by the Port Director under paragraph (a) of this section or any refund of special tonnage tax or light money authorized by the Commissioner of Customs shall be made by the appropriate Customs officer. The records of tonnage tax shall be clearly noted to show each refund authorized.

(c) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality and name of the vessel, and the date, place, and amount of each payment for which refund is requested. The application shall be made within 1 year from date of the payment. A protest against a payment shall not be accepted as an application for its refund.

(d) When the application is based upon a claim that more than five payments of regular tax at either the 2-cent or the 6-cent rate have been made during a tonnage year, the application shall be supported by a statement from the appropriate Customs officer at the port where the application is submitted and from the appropriate Customs officer at each port at which any claimed payment was made verifying the facts and showing in each case whether refunds have been authorized.

(e) The application shall include a certificate by the owner or by the owner's agent that payment of tonnage tax at the applicable rate has been or will be made for each entry of the vessel on

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a voyage on which that rate is applicable before the end of the current tonnage year, exclusive of any payment which has been refunded or which may be refunded as a result of such application.

(f) The owner or operator of the vessel involved, or other party in interest, may file with the port Director a petition addressed to the Commissioner of Customs for a review of the port director's decision on an application for refund of regular tonnage tax. Such petition shall be filed in duplicate within 30 days from the date of notice of the initial decision, shall completely identify the case, and shall set forth in detail the exceptions to the decision.

[T.D. 71–274, 36 FR 21025, Nov. 3, 1971, as amended by T.D. 95–77, 60 FR 50010, Sept. 27, 1995]

LANDING AND DELIVERY OF CARGO

§4.30 Permits and special licenses for unloading and lading.

(a) Except as prescribed in paragraph (f), (g), or (k) of this section or in §123.8 of this chapter, and except in the case of a vessel exempt from entry or clearance fees under 19 U.S.C. 288, no passengers, cargo, baggage, or other article shall be unladen from a vessel which arrives directly or indirectly from any port or place outside the Customs territory of the U.S., including the adjacent waters (see §4.6 of this part), or from a vessel which transits the Panama Canal and no cargo, baggage, or other article shall be laden on a vessel destined to a port or place outside the Customs territory of the U.S., including the adjacent waters (see §4.6 of this part) if Customs supervision of such lading is required, until the port director shall have issued a permit or special license therefore on Customs Form 3171 or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service.

(1) U.S. and foreign vessels arriving at a U.S. port directly from a foreign port or place are required to make entry, whether it be formal or, as provided in §4.8, preliminary, before the port director may issue a permit or special license to lade or unlade.

(2) U.S. vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade without having to make either preliminary or formal entry at the second and subsequent ports. Foreign vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade at the second and subsequent ports prior to formal entry without the necessity of making preliminary entry. In these circumstances, after the master has reported arrival of the vessel, the port director may issue the permit or special license or may, in his discretion, require the vessel to be boarded, the master to make an oath or affirmation to the truth of the statements contained in the vessel's manifest to the Customs officer who boards the vessel, and require delivery of the manifest prior to issuing the permit.

(b) Application for a permit or special license will be made by the master, owner, or agent of the vessel on Customs Form 3171, or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service, and will specifically indicate the type of service desired at that time, unless a term permit or term special license has been issued. Vessels that arrive in a Customs port with more than one vessel carrier sharing or leasing space on board the vessel (such as under a vessel sharing or slot charter arrangement) are required to indicate on the CF 3171 all carriers on board the vessel and indicate whether each carrier is transmitting its cargo declaration electronically or is presenting it on the Customs Form 1302. In the case of a term permit or term special license, upon entry of each vessel, a copy of the term permit or special license must be submitted to Customs during official hours in advance of the rendering of services so as to update the nature of the services desired and the exact times they will be needed. Permits must also be updated to reflect any other needed changes including those in the name of the vessel as well as the slot charter or vessel sharing parties. An agent of a vessel may limit